

CALIFORNIA COASTAL COMMISSION

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F21a

Permit Expiration:	12/14/02
Extension Request Filed:	12/13/02
Staff:	M. Watson
Staff report:	03/20/03
Hearing date:	04/11/03

STAFF REPORT: PERMIT EXTENSION REQUEST

Application number:	3-00-115-E
Applicant:	Kasey and Monique Dority
Project location:	Monte Verde, 5 Southwest of 12th Avenue, City of Carmel-by-the-Sea, Monterey County (Block 134, Lot 11; APN 010-175-06)
Project description:	Request for an extension of a Coastal Development Permit to demolish an existing 520 square foot single family residence and construct in its place a 1,800 square foot two-story residence on a standard 4,000 square foot lot.
Local approval:	City of Carmel-by-the-Sea: DS 02-33 / RE 02-11.
File documents:	City of Carmel-By-The-Sea approved Land Use Plan and uncertified Zoning Ordinance; Categorical Exclusion Order E-77-13; City of Carmel Community Building and Planning Department Staff Report (06/12/02)..
Recommendation:	Denial

Procedural Note

Section 13169 of the Commission's regulations provide that permit extension requests shall be reported to the Commission if:

- 1) The Executive Director determines that due to changed circumstances the proposed development may not be consistent with the Coastal Act, or
- 2) Objection is made to the Executive Director's determination of consistency with the Coastal Act.

In this case, the extension request is being reported to the Commission because the Executive Director has determined that there are changed circumstances that may affect the project's consistency with the Coastal Act. Section 13169(d)(1) of the Commission's regulations provide that if three (3) Commissioners object to an extension request on the grounds that the proposed development may not be consistent with the Coastal Act, the application shall be set for a full hearing as though it were a new application. If three objections are not received, the permit will be extended for an additional one-year period.

Executive Summary

The applicant proposes to extend Coastal Development Permit 3-00-115 for the demolition of a 520 square foot single-family residence on a 4,000 square foot lot in the City of Carmel-by-the-Sea. The project approved by the Commission in 2000 facilitated construction of a new 1,800 square foot two



California Coastal Commission
April 11, 2003 Meeting in Santa Barbara

Staff: M. Watson Approved by:

story, single family dwelling with attached garaged and was conditioned to provide a Relocation or Salvage Plan for the home prior to commencement of the demolition.

Work has not commenced on the project since the issue date of the original coastal development permit (December 2000). Because the applicant did not take steps to inaugurate the coastal development permit, the City's original design review approval expired and the applicant was required to reapply for a new design review and demolition permit before moving forward. In addition, there had been numerous changes in the City's building ordinances and thus, the applicant was compelled to redesign the replacement dwelling. The City conditioned the demolition request to require a Coastal Development Permit from the Commission and the applicant has subsequently asked for an extension of the original CDP. At this time, the applicant is interested in moving forward with the project, but must first obtain a coastal development permit from the Commission for the new project or a CDP amendment if the original permit is extended.

The standard of review for a permit extension request, established by Section 13169 of the Commission's Administrative Regulations, is whether there are changed circumstances that may affect the project's consistency with the California Coastal Act. The City of Carmel-by-the-Sea has not yet received coastal development permitting authority but is actively pursuing a certified LCP. The Commission recently approved the City's Land Use Plan in March 2003. Though the LUP can be used as additional guidance to determine whether new development is consistent with Coastal Act policies protecting special communities, the standard of review remains the Coastal Act. If the Commission determines that there are changed circumstances regarding the project's conformance with these standards, the application must be set for a full hearing as if it were a new application.

Staff recommends that the Commission deny the extension request based on the Executive Director's determination that there are changed circumstances affecting the project's consistency with section 30253(5) of the Coastal Act and the policies set forth in the uncertified City of Carmel-by-the-Sea LUP. These circumstances include:

- changes in the treatment of historic resources based on more detailed information and understanding of historic resources in Carmel-by-the-Sea. In the course of developing the Land Use Plan, the City has prepared a Historic Preservation Element that establishes the rules and guidelines for development and redevelopment of project sites with historic resources; the Commission recently approved the City's Land Use Plan that provides the framework for identifying, evaluating, and designating historic resources.
- Applicant has submitted a request for a CDP extension to demolish a home in Carmel. The applicant is also seeking a CDP for a new replacement home that was not covered by the original permit issued in December 2000. As a result, the applicant is effectively combining a CDP approval for a new project on an extension of their prior permit.

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Exhibits

Exhibit 1: Regional Location

Exhibit 2: Site location

Appendix A

Adopted staff report for 3-00-115



California Coastal Commission

1. Staff Recommendation

Staff recommends that the Commission **DENY** the permit extension request by concurring with the Executive Director's determination that there are changed circumstances affecting the development's consistency with the Coastal Act and adopting the following motion.

MOTION

I move that the Commission grant a one-year extension to Coastal Development Permit 3-00-115 because there are no changed circumstances that affect the project's consistency with the Coastal Act.

Staff recommends a **NO** vote. Pursuant to Section 13169 of Title 14 of the California Code of Regulations, three Commissioners must object to the extension of the permit in order to deny the extension request and require rescheduling of the application as if it were a new application.

2. Recommended Findings and Declarations

The Commission finds and declares as follows:

A. Project Background, Description, & Location

The project site is a rectangular 4,000 sq.ft. lot, the typical lot size in Carmel. It is located on the east side of Monte Verde Street between 12th and 13th Avenues, five blocks inland from the beach, in the south central part of the City. The City's staff report states that the site has an existing 900 square foot residence, built sometime between 1917 and 1920 (applicant lists the existing structure as only 520 square feet—the reason for this discrepancy was not determined). The wood-frame, bungalow style structure has a steeply gabled roofline and lapped wood siding exterior. The front of the house has a reconstructed front porch dating from 1974.

The Carmel Preservation Foundation included the property on its comprehensive list of historic resources because it found that:

The house does relate directly to Carmel's early development, architecturally, because its style, borrowing from the New England tradition, reflects the presence of some of the earliest settlers in Carmel as well as those from the Big Sur coast.

A subsequent historical resource evaluation report for this property was prepared at the City's request by Jones & Stokes Associates (Final Evaluation Report for the Dority Property, Jones & Stokes, Dec. 1999). This report concluded:

The Dority property is not eligible for listing in the CRHR [California Register of Historic Resources] as an individual resource or as a contributing element of the potentially eligible "District One" historic district. Although the house is not intrusive to the district, it does



not exemplify the qualities of early design traditions in Carmel. Many homes of the 1910s followed the tradition of simplicity, making use of rustic materials and other bungalow design elements inspired by the earlier Arts and Crafts movement. Others followed revival or “storybook” themes. This house is a modest example of the bungalow type built during that period. The historic appearance of the house has been compromised with the 1974 reconstruction of the front porch, built with modern construction materials and inappropriate ornate iron railing. The house is not a good example of its type or design traditions in Carmel, but represents a simple working class bungalow type common to working class neighborhoods across the nation. In addition, the integrity of the original house has been compromised with the reconstruction of the front porch, overall rendering it a changed example of a simple housing type with no real design tradition associated with Carmel, and therefore it does not make a special contribution to the historic district. The property does not meet the CRHR criteria for having association with events or persons significant to the history of Carmel.

According to the City staff report, the City’s Historic Preservation Committee disagreed with the report’s conclusions, and voted to recommend that the new Form DPR 523 not be adopted. The reasons cited include “...the potential for reconversion of the front façade, and the cottage’s potential contribution to a potential historic district.” Nonetheless, on May 24, 2000 the City’s Planning Commission, upon consideration of the Historic Preservation Committee’s recommendation, found that the site does not constitute a historic resource; and, voted to accept the new DPR 523 and approve the demolition and replacement residence. This action is consistent with the City staff report, which states:

The Planning Commission has consistently rejected the “potential contribution to a potential historic district” argument as sufficient to warrant historic significance. Further, reconstruction of the front façade of the cottage to its original appearance does not avoid the fact that the original historic fabric has been lost.

On December 14, 2000, the Commission heard the application and approved the project with special conditions that required Relocation or Salvage of the cottage prior to commencement of demolition. Additional mitigation was warranted in this case, because of the existing buildings cottage character and/or potential as a historic resource and the adverse cumulative effect such demolitions were having on the City’s special character –particularly in the absence of a certified LCP. The Commission found that as mitigated -in the form of Relocation or Salvage- the change facilitated by the proposed demolition would not be substantial enough to undermine the City’s efforts to complete an LCP. The Commission found the project consistent with Chapter 3 of the Coastal Act and a CDP was issued. The adopted staff report for the Commission’s approval is attached to this report as Appendix A.

Since that time, work has not commenced on the project and as a consequence, the City’s design approval has expired. Additionally, the applicant was required to obtain design approval for a similar but completely new project because of changes in the City’s zoning ordinances that had taken effect in the interim. The City conditioned the second approval to require the applicant to obtain a coastal development permit for the demolition. The CDP issued by the Commission in December 2000 was for a demolition of an existing structure and did not include approval of a new residence. The previously proposed



replacement structure was excluded from CDP requirements under the City's categorical exclusion order, E-77-13. The current proposed residence, which is the subject of the City's second design review approval, is not.

B. Changed Circumstances

1. Preserving Historic Resources

Background / Information

The protection of historic resources is central to the issue of protecting community character in Carmel. Historical resources range from architecturally significant historic buildings and collections of buildings or residences that form distinctive neighborhoods to those associated with important persons or events in Carmel's history. It also includes street features, landscaping and both prehistoric and historic archaeological resources. Historic resources often embody the attributes and design traditions recognized in the City's Design Traditions Project as providing "character" to the community. However, historical resources are further distinguished for their contribution to the broad patterns of local history. The types of historic resources in Carmel are classified using the criteria established in the California Register of Historic Resources. The criteria for historical significance ranges from architecturally significant historic buildings associated with significant events or persons, or resources that embody the distinctive characteristics of a type, period, region, or method of construction or represent the work of master builder, and resources that yield information important to the prehistory or history of the local area, California, or the nation. The City has prepared and adopted a Historic Context Statement that provides additional context for establishing historic significance under local criteria.

In Carmel, an unprecedented amount of acquisitions of existing small cottages and requests for permits to demolish and redevelop the lots with larger modern homes is occurring. In response, public concern has turned to the need for a historic preservation program that protects historic resources from being demolished and that guides rehabilitation of these homes in a manner that is consistent with the Secretary of Interior Standards and the established character of the community. In large part, this single issue is driving the City's most recent effort at LCP certification. The City of Carmel has responded by submitting a program for preserving historic resources.

Prior Commission Action

As noted in the Project Background/Description and Location section above, the Commission approved a CDP for the demolition of a small cottage in December 2000. The proposed replacement structure was not the subject of the permit because it met the criteria for excludable development under the City's categorical exclusion order, E-77-13. There was a debate as to the historical significance of the cottage. One evaluator determined the house was historic, another concluded it was not. The City's Historic Preservation Committee recommended to the City Council that the house be designated a historic resource, but the council rejected the recommendation and issued the permit for its destruction. After careful review, the Commission concluded that demolition of the cottage might adversely impact the character of neighborhood and community and ultimately prejudice the City's LCP planning efforts. The Commission



found that in order to bring the project into conformity with sections 30253(5) and 30604 of the Coastal Act, it was necessary to mitigate for the irreversible loss of a potentially historic resource. A relocation or salvage condition was placed on the permit requiring the applicant to make arrangements to move the structure within the City or if relocation was infeasible, salvage as much of the materials as possible.

Analysis of Changed Circumstances

A. New Information Regarding Historic Resource in Carmel

Prior to the development and approval of the City's Land Use Plan in March 2003, the value of historic preservation in Carmel was not as realized as it is today. Several homes with historical associations have been demolished. And while historic preservation is not a new concept, the measures necessary to effectuate preservation and facilitate public understanding and acceptance of its value had yet to be developed. Only recently has more detailed historic preservation approaches in the coastal zone been recognized and embraced by the City and the Commission. As a direct result of various efforts to protect these resources including those groups actively involved in preserving Carmel's heritage, the City's LUP includes a Historic Preservation Element, which provides a process for identification, evaluation, designation, design review, and ultimately rehabilitation of historic homes.

City's Reconnaissance Survey

The City has begun a process of identifying historic resources through a comprehensive survey of the City's residential neighborhoods. A team of consultants has been brought in to perform a reconnaissance survey and block-by-block visual review of the entire community identifying all sites that warrant more intensive historic analysis. The consultants evaluate properties for their potential to meet eligibility criteria for inclusion in the National and/or State Register of Historic Resources. A principal basis for inclusion on the survey is a potential historic resource's ability to convey a sense of time, place, and theme established through the City's Historic Context Statement. The context statement provides the framework for identifying historic resources through its thematic descriptions and identification of associated resource characteristics.

If a structure is not on the City's inventory, it may still be evaluated on a case-by-case basis when a project is proposed that would alter the building footprint or add a second story. Original building plans are used to compare with an on-site site assessment of the home. To qualify as a historic resource, the physical features of the home must retain substantial integrity. Depending on the state of the home, a qualified professional may be called to prepare an historic evaluation that includes researching the origins of the house, its relationship to the builder, occupants, and possibly any contributions to the broad patterns of local, state, or national history. The City's LUP criterion for establishing historical significance generally follows the California Register of Historical Resources eligibility requirements.¹ For example,

¹ The California Register has four criteria for historic significance. These are: (1) the resource is associated with events that have made a significant contribution to broad patterns of local or regional history or the cultural heritage of California or the United States; or (2) the resource is associated with the lives of persons important to local, California or national history; or (3) the resource embodies the distinctive characteristics of a type, period, region, or method of construction or represents the work of a master or possesses high artistic values; or (4) the resource has yielded, or has the potential to yield, information important to the prehistory or history of the local area, California or the nation.



a structure that has retained its integrity and is a good example of a particular architectural style or constructed by a well-known builder, would qualify as a historic resource. As such, treatment of the resource under the LUP policies specifically prohibit demolition but allow for rehabilitation with a limited amount of development including the possibility of an addition consistent with the Secretary of Interior Standards.

Analysis of Cumulative Impacts

The implications of approving the demolition of a potentially historic resource, and the cumulative impact on the City's unique character, were not fully understood during the original review of the Dority project. In particular, demolitions of existing historic homes and cottages were resulting in the loss of the unique character, which they individually represent and which cumulatively, form an important part of Carmel's architectural evolution and character. Significantly, the volume of requests for demolitions has escalated rapidly in recent years. In the three years between January 2000 and December 2002, there have been 61 applications received by the Commission requesting the demolition of a residential structure in the City of Carmel. Additionally, the City processes numerous permits for substantial alterations each month, many of which result in significant changes to Carmel residences. Granted not all of these demolition and substantial alterations involved historic homes, but some of them were and their contribution to the unique character of Carmel is forever lost.

B. New Knowledge of Treatment of Historic Resources in Carmel

As noted above, new information regarding the established character of Carmel's has become available to the Commission since the 2000 approval that has led to an evolution in identification, evaluation, and ultimately treatment of historic resources and protection principals. In essence, the development of the LUP has led to both a substantial increase in understanding of the value of historic resources in Carmel and the recognition that effective historic preservation program is necessary to protect the special character of Carmel's residential neighborhoods and community. As applied to residential structures, this evolving approach to historic resource preservation requires that historic resources be rehabilitated according to the Secretary of Interior Standards. The Secretary of Interior Standards are common sense principles that provide guidance to help preserve historic resources by promoting consistent preservation practices. These principals and preservation practices have been implemented by many cities in California and across the country. Under the SOI standards and guidelines demolitions of historic resources are prohibited, as are changes that are inconsistent with SOI standards, unless it is determined through environmental review that all other alternatives consistent with SOI standards are not feasible.

In this case, at least one independent evaluation and the City's Historic Preservation Committee had recommended that the existing structure be designated a historic resource and treated accordingly. A second evaluation prepared at the request of the City concluded that the house was not historic. The City Council overruled the findings of the Historic Preservation Committee and adopted findings that concluded the house was not historic. In its analysis the Commission acknowledged the fact that there was considerable debate as to whether the existing cottage constituted a historic resource and, if demolished, recognized that demolition would result in an irreversible loss to the community. The Commission did not, however, find that the structure was an historic resource. In light of the uncertainty, the Commission conditioned the permit to mitigate for the loss through relocation and salvage.



As we have come to learn, the relocation and salvage condition is not adequate for the protection of historic resources. First, relocation is generally not allowed by the Secretary of Interior Standards. Secondly, salvaging materials from a cottage does little to preserve historic resources or the neighborhood context from whence it came. They do not result in effective mitigation for the loss of a historic resource and/or preservation of community character. More important, in light of the changed circumstances discussed above, the historic value of the structure must be reconsidered. Thus, the demolition may not be consistent in light of this new knowledge.

Finally, in light of the above circumstances, the City has prepared a Historic Preservation Element and incorporated it into its recently approved Land Use Plan to address identification, designation, and treatment of historic resources. Notwithstanding the policies contained therein, specific management and protection measures and processes (i.e., ordinances and standards) will need to be further developed through the LCP (Implementation Plan) process in order to ensure compliance with Coastal Act and Land Use Plan policies protecting special communities. Thus, extending the coastal development permit for the Dority project may directly prejudice opportunities to consider, via the current LCP process, the full range of alternatives that are most protective of historic resources.

Conclusion

New information regarding the unique character of Carmel and an improved understanding of the role historic resources play in that special community, has resulted in changed circumstances that must be considered before the coastal development permit for the Dority project be extended. Furthermore, the Local Coastal Program currently being developed by the City provides a new opportunity to assess treatment of historic resources and the full range of alternatives that will best address preservation needs and opportunities within the City of Carmel-by-the-Sea coastal zone. Extension of the previously approved Dority permit may prejudice this opportunity, in conflict with section 30604 of the Coastal Act.

2. Applicant Proposes New Project

Background / Information

As noted in the Historic Resource finding above, the Commission's December 2000 coastal development permit was issued for demolition of an existing cottage. The original replacement structure was excluded from coastal development permitting requirements, because it met the requirements of the City's categorical exclusion order E-77-13. For unknown reasons, the applicant failed to inaugurate the CDP and the City's design review permit expired. City planning department required the applicant to reapply under new standards, which altered the design of the replacement house. The new design encroaches within the 15-foot rear yard setback. This setback is required of all residences greater than 15' in height and the applicant's proposal is more than 22 feet in height. Because of this, the replacement home no longer falls within the category of development that could be excluded from coastal development permit requirements under the City's exclusion order. Thus, the applicant must obtain a CDP from the Commission for the demolition *and* the new home. The applicant is requesting the Commission extend its prior approval to demolish the existing structure and allow an approval for the new residence to ride on top of that.



Analysis of Changed Circumstances

The Commission's original coastal development permit approval was for the demolition of an existing structure. The original replacement structure was excluded from CDP consideration. Because the original design review permit was allowed to expire, the applicant has subsequently applied for and received a design approval for a new project at the same location on Monte Verde street in Carmel. The new project involves the demolition of an existing cottage and a replacement home that is not excluded from the CDP requirements of the Coastal Act. The replacement house does not meet the setback requirements set forth in the City's categorical exclusion for two-story homes. The Coastal Act requires all development to obtain a coastal development permit and the applicant has not yet received a coastal development permit for the replacement home.

Conclusion

New information regarding the permit status of the applicant's proposal has resulted in changed circumstances that must be considered. The applicant has received a coastal development permit for the demolition of a small cottage, however, a coastal development permit for the proposed replacement home was not granted. The applicant is requesting a CDP extension to allow the new project to be automatically approved with the grant of extension of the original project without the benefit of a coastal development permit review. This is inconsistent with state law, therefore, staff recommends the request for a permit extension be denied.

